

VZCZCXRO8841
OO RUEHDE
DE RUEHAD #0192/01 0231326
ZNY CCCCC ZZH
O 231326Z JAN 06
FM AMEMBASSY ABU DHABI
TO RUEHC/SECSTATE WASHDC IMMEDIATE 3188
INFO RUEHZM/GULF COOPERATION COUNCIL COLLECTIVE

C O N F I D E N T I A L SECTION 01 OF 02 ABU DHABI 000192

SIPDIS

SIPDIS

STATE FOR EB/TPP/BTA & EB/IFD/OIA
STATE FOR NEA, NEA/ARPI, NEA/PI
STATE PLS PASS TO USTR FOR DOUG BELL & SHAUN DONNELLY

E.O. 12958: DECL: 11/08/2015

TAGS: [ETRD](#) [ECON](#) [EFIN](#) [TC](#)

SUBJECT: READOUT ON WASHINGTON FTA INVESTMENT DISCUSSION

REF: ABU DHABI 72

Classified By: AMBASSADOR MICHELE J. SISON FOR REASONS 1.4 (b & d)

11. (C) Summary: We have reached out to Minister of Economy Sheikha Lubna Al-Qasimi and Ministry of Finance and Abu Dhabi Investment Authority contacts to get their thoughts on the January 16-17 Washington discussions on the investment chapter of the FTA and to urge them to keep up forward momentum in the upcoming London rounds even as we discuss these difficult issues. An employee of the UAE offsets group has contacted us to ask whether the USG now wants to include defense offsets in an FTA negotiation and gave us his understanding that the U.S. had previously assured the UAEG that defense offsets were not part of the FTA. Ambassador and EconChief will meet with Minister of State for Finance Dr. Khirbash on January 25 to review FTA issues. End Summary.

12. (C) Based on our understanding that the January 17 discussions in Washington on investment issues had not resolved the apparent deadlock on ownership of natural resources, we contacted the Ministries of Economy and Finance to discuss the matter and to encourage the UAE negotiators to exercise the maximum possible flexibility. On January 20, Ambassador discussed the talks with Minister of Economy Sheikha Lubna Al-Qasimi. Sheikha Lubna, who had just returned from a trip to India, told Ambassador that she had not yet been briefed fully on the results of the Washington talks. However, she said that her concern was that neither side would have enough time before the upcoming January 30-February 1 London negotiating round to modify its position, and that she did not want to lose momentum on other negotiating issues. Ambassador urged her to keep up the positive momentum on the negotiations even as we sought open and frank discussion of the issues. Sheikha Lubna expressed concern that the natural resources issue would prove to be a "deal breaker." Ambassador reiterated USG desire to find an approach that would address UAEG concerns that was consistent with the basic premise of our bilateral FTAs -- that all sectors are within the scope of the agreement (subject to narrow exceptions). Sheikha Lubna also raised the question of defense sector inclusion within an FTA (see also Para 6).

13. (C) On January 21, econchief called MinFin A/US for Revenue and Budget Khalid Al-Bustani to talk about the Washington investment chapter discussions. Al-Bustani, who attended the Washington talks, said that the discussions had in part foundered on the UAE's insistence that an FTA needed to exclude natural resources. He explained that the UAE viewed natural resources (i.e., oil and natural gas) as a national security issue, and that the UAE negotiator's instructions to carve natural resources out of the FTA came from the "highest authorities." He also reiterated that natural resources belonged to the individual emirates rather than the federal government and specified that the

instructions came from the Emirate of Abu Dhabi, which owns over 94% of the oil and gas reserves in the UAE. (Note: Al-Bustani's comments about the negotiating instructions to "carve out" natural resources coming from the highest levels, specifically from the emirate of Abu Dhabi, track with what Minister of Information and Abu Dhabi ruling family member Sheikh Abdullah bin Zayed Al-Nahyan told A/S Tony Wayne on January 6 --reftel. End Note.)

14. (C) Al-Bustani noted that the UAE was willing to discuss a side-letter arrangement to carve out natural resources and was willing to work on the language with the USG, but stated that the U.S. side was -- as a matter of principle -- unable to discuss the exclusion of natural resources from the FTA. In response to Econchief's question about the UAEG's resistance to including investor state dispute settlement provisions in the FTA, Al-Bustani said that this objection was tied closely to the issue of ownership of natural resources. He opined that, if natural resources were carved out, it would be easier for the UAE to accept investor state dispute settlement. Al-Bustani stressed that the UAE was not trying to block foreign investment in the oil sector --- and indeed allowed upstream investment under concession agreements. Rather, he said, UAE concern was about ownership of a strategic resource. He told Econchief that he thought the oil companies currently participating in the upstream oil sector were happy with the situation and urged econchief to ask them if they wanted natural resources included in an FTA. Al-Bustani said that he had met with AUSTR Donnelly after the discussions and that Donnelly had told him that if this was an area where the two sides could not reach agreement in the end, they might need to agree to "go their separate ways." Al-Bustani said that he thought that this characterization was "too strong" a response and that both

ABU DHABI 00000192 002 OF 002

sides needed to go back to consult with their respective leadership. He said that the UAE was committed to moving forward on the negotiations and that now the discussions were centering on resolving the "tough issues." Finally Al-Bustani said that he appreciated all of the work USTR had done in setting up the meetings to address the UAEG's concerns such as tax and security of assets.

15. (C) On January 23, Econchief discussed the Washington talks with Abu Dhabi Investment Authority (ADIA) tax advisor, Dr. Robert Peake (protect) for his thoughts on the Washington discussions. Peake said that the real "delicate area" had been the issue of natural resources, confirming that UAE negotiators' mandate was to exclude natural resources from the FTA. Peake said that he hoped the issue would be solvable, but that it would take some creative thinking. He noted that there was precedent for excluding natural resources in trade agreements and stressed that the issue for the UAE was not access, since the UAE already was very open to foreign investment in the oil sector, but ownership and control over the resource. Econchief explained that the U.S.' basic premise of an FTA was that all sectors would be included (subject to narrow exceptions). Econchief noted that the exception for PEMEX granted in NAFTA was 15 years old and that our more recent FTAs do not exclude whole sectors.

16. (SBU) On January 21, an employee of the UAE Offsets' group contacted econchief to say that he had been approached by the UAE negotiators to prepare a paper explaining why defense offsets should not be included in an FTA. He told econchief that he distinctly remembered that former AUSTR Catherine Novelli had clearly stated that the FTA would not include defense sales during her meetings with the Abu Dhabi Chamber of Commerce and U.S. businesses. He asked whether that position had changed or if there was some sort of misunderstanding on the part of the UAE negotiators. Econchief promised to look into the issue.

SISON